

CAMPAIGN FOR NEW YORK'S FUTURE

Brownfields

Mayor Bloomberg has proposed cleaning up all 7,600 acres of contaminated land – or brownfields – in New York City. With nearly one million newcomers expected by 2030 and a limited land supply, these sites need to be cleaned up and re-used for low and middle income housing, parks, job-producing services and industries, and public amenities. PlaNYC proposes relatively minor changes to the 2003 Brownfield Law, which would immediately allow the State's Brownfield Programs to operate much more effectively, allowing City to advance its reclamation agenda. This fact sheet is prepared by the Campaign for New York's Future – a coalition of civic, business, environmental, labor, community and public health organizations – to answer some common questions about what is needed to clean up brownfields.

What's wrong with the existing Brownfield Cleanup Program?

Brownfield sites contaminated with historic fill are being excluded from the NYS Brownfield Cleanup Program. These sites belong in a cleanup program because they contain contamination that exceeds the State's health-based standards and require remediation before re-use. This indiscriminate disqualification of historic fill sites disproportionately affects New York City where many low-income neighborhoods and communities of color are subject to the historically bad practice of using contaminated fill materials to build up areas for development. Entire communities are being denied the health and environmental benefits of the Brownfield Cleanup Program as well as the lucrative brownfield tax credits. This tends to perpetuate the historically disproportionate amount of environmental harm and disinvestment on these communities.

What can be done to strengthen the program and clean up brownfields?

More Carefully Target the State's Lucrative Brownfield Tax Credits.

Currently, any site that is accepted into the Brownfield Cleanup Program generates lucrative brownfield tax credits as-of-right. These tax credits are based on the cost of cleanup and also based on the development cost. According to the statute, even the tax credits that are generated as a result of the development costs are provided as-of-right for every project that gets accepted into the BCP, even though eligibility for the BCP is based solely on the presence and type of contamination. There is no evaluation to determine whether the financial assistance will achieve the State's or the City's development goals. This has resulted in delay in the eligibility determination process and is linked to the exclusion of historic fill sites. These tax credits need to be restructured, so that a higher percentage of credits are generated for remediation and there are caps on the credits generated for development.

Release the Brownfield Opportunity Area (BOA) Funds. The BOA Program provides funding every year to help communities with large concentrations of brownfields develop visions for how underutilized land in their neighborhoods could be redeveloped to strengthen existing or proposed community plans. NYC applicants received 10 BOA grants in

**"... communities
have been waiting a
long time for
cleanups."**

—Elizabeth C. Yeampierre,
Executive Director, UPROSE

the first round, but it took over two years before any group received any funding. The delays in releasing these funds are due to the BOA program's inefficient and costly dual agency construct, requiring sign-offs by both the Department of State and the Department of Environmental Conservation for every step of the BOA planning process. The State needs to modify its requirements in order to deliver funding more quickly. This includes significantly streamlining the dual agency administration of the BOA program by placing it a single agency. Between the DEC and the DOS, the better candidate is the DOS, which has historically functioned as the State's planning agency and liaison with local government. While the DEC should retain all environmental regulatory decision-making, DEC does not need to have a role in the administration of the BOA program, which requires distinct types of expertise unrelated to environmental considerations.

Provide Incentives to Participate in Brownfield Opportunity Area Program Planning. There is currently no incentive for private property owners or developers to work with the community's BOA planning effort. Although the current law states that projects consistent with BOA plans be given "preference and priority" for incentives, the State has not defined the nature of the preference and no project has received benefits. The Brownfield Law needs to be amended to clearly direct financial and other incentives to encourage developers and property owners to participate in and cooperate with the BOA planning process. In addition, statutes that administer other government programs, such as housing and infrastructure subsidies and economic development grants and loans, should be amended to codify the "priority and preference" language of the BOA program. State capital programs, such as those for road improvement, sewer system repair, parks, and street lighting, should include BOAs in their criteria for prioritizing projects within their annual work plans.

Reduce delays and uncertainties of the BCP. If the above revisions are immediately made to the statute, and clear criteria for decision-making are established upfront, it will go a long way towards reducing the uncertainty and delays in the eligibility determination process. Beyond these immediate statutory corrections, it will be important going forward to streamline what is now a one-size-fits-all BCP. At a minimum, the program should allow for a more streamlined process for moderately contaminated sites without reducing protection of public health and the environment or meaningful community involvement.

For more information, visit www.CampaignForNewYork.org.